

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT KOENIG,

Plaintiff,

- against -

U.S. FEDERAL INTERNAL REVENUE
SERVICE; JAMES A. SALVALZO;
WILBUR PROPERTIES; and BESSEMER
TRUST COMPANY,

Defendants.

No. 19 Civ. 7919 (PAE)

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

WHEREAS, on or about August 23, 2019, Plaintiff Robert Koenig (“Plaintiff”) initiated this matter by filing a complaint against Defendants the Internal Revenue Service (“IRS”), James A. Salvalzo (“Salvalzo,” and together with the IRS, the “IRS Defendants”), Wilbur Properties, and Bessemer Trust Company seeking, *inter alia*, a tax refund for tax year 2009 plus statutory interest (the “Refund”);

WHEREAS, Plaintiff and the IRS Defendants agree that the United States of America (the “United States”) should be substituted as defendant in place of the IRS Defendants pursuant to 26 U.S.C. § 7422(f)(1)–(2);

WHEREAS, Defendants Bessemer Trust Company and Wilbur Properties were not served in accordance with Federal Rule of Civil Procedure 4;

WHEREAS, Plaintiff and the United States (together, the “Parties”) have agreed to a resolution of Plaintiffs’ claims against the United States and Plaintiff agrees to voluntarily dismiss his claims against Bessemer Trust Company and Wilbur Properties;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties as follows:

1. This action, including Plaintiff's claims against the United States and the IRS Defendants, is hereby dismissed with prejudice and without costs, interest, disbursements or fees as against any party, other than as set forth herein.

2. Following execution by the Parties and entry by the Court of this Stipulation and Order of Settlement and Dismissal (the "Stipulation"), the United States will pay to Plaintiff, by check made payable to Robert Koenig, the amount of one hundred seventy-five thousand nine hundred sixty-eight dollars and ninety-seven cents (\$175,968.97), plus interest according to law, subject to any offsets permitted by law, in full satisfaction of Plaintiff's claims (the "Settlement Amount"). The check will be sent to:

Robert Koenig
3720 81st Street, Apt. 4L
Jackson Heights, NY 11372

3. Plaintiff hereby agrees that the Settlement Amount shall be in full settlement of any and all claims that he and any of his heirs, executors, successors in interest, administrators or assigns have, may have, or may hereafter acquire against the United States, including the IRS, the U.S. Department of the Treasury, and/or any department, agency, agent, officer, or present or former employee of the United States, the IRS, and/or the U.S. Department of the Treasury, including Salvalzo, arising from or related to, directly or indirectly, the facts, events, and circumstances giving rise to this action, and any claims incident thereto, including but not limited to Plaintiff's tax liabilities related to tax year 2009.

4. Plaintiff hereby expressly releases and forever discharges the United States, including the IRS, the U.S. Department of the Treasury, and/or any department, agency, agent, officer, or present or former employee of the United States, the IRS, and/or the U.S. Department of the Treasury, including Salvalzo, from any and all claims and liability arising from or related

to, directly or indirectly, the facts, events, and circumstances giving rise to this action, and any claims incident thereto.

5. The Parties understand and agree that this Stipulation contains the entire agreement between them, and that any statements, representations, promises, agreements, or negotiations, oral or otherwise, between the Parties that are not included herein shall be of no force or effect.

6. The Court shall retain jurisdiction over all matters concerning the Stipulation.

7. The Stipulation shall be governed by, interpreted under, and construed in accordance with federal law.

8. The Stipulation shall be binding upon and inure to the benefit of Plaintiff and the United States and their respective successors and assigns.

9. If not approved and entered by the Court, this Stipulation shall be null and void, with no force or effect.

10. The Stipulation may be executed in one or more counterparts, each of which shall be deemed to be one and the same.

Dated: New York, New York
February 26, 2020



ROBERT KOENIG
3720 81st St., Apt. 4L
Jackson Heights, NY 11372
Tel: (212) 203-9712
Pro Se Plaintiff

Dated: New York, New York
February 27, 2020

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By:



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Counsel for the United States

SO ORDERED:

Dated: February 28, 2020
New York, NY



PAUL A. ENGELMAYER
United States District Judge